

AGENDA

CITY OF NEWTON



August 2, 2016

WORKSHOP AT 6:00 P.M. TO DISCUSS STORMWATER ENTERPRISE FUND

AGENDA

CITY OF NEWTON

NEWTON CITY COUNCIL - REGULAR MEETING

August 2, 2016

7:00 p.m.

- | | | |
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| Page | 1. | <u>Call to Order – Mayor Anne P. Stedman</u> |
| | 2. | <u>Opening – Council Member Wes Weaver</u> |
| 1 | 3. | <u>Approval of Minutes from the July 12, 2016 Regular Meeting</u> |
| | 4. | <u>Consideration of Consent Agenda Items</u> |
| 8 | A. | Tax Releases |
| 9 | B. | Sewer Adjustments |
| 10 | C. | Consideration of Budget Ordinance Amendment to Carry Forward Outstanding Purchase Orders at June 30, 2016 |
| 13 | D. | Approval of Mowing Bids for Highway 16 |
| 14 | E. | Authorization for Fireworks Display – Hickory American Legion Fair Association |
| | 5. | <u>Comments from the Public: (PERSONS WANTING TO MAKE A PUBLIC COMMENT ON NON-AGENDA ITEMS ARE REQUESTED TO SIGN IN WITH THE CITY CLERK PRIOR TO THE MEETING):</u> |
| | 6. | <u>Public Hearing</u> |
| 25 | A. | Special Use Permit – Bennett’s Funeral Home |
| 38 | B. | Economic Development Agreement – Peoples Bank |
| | 7. | <u>New Business</u> |
| 52 | A. | Consideration of Paving Bids |
| | | 1. Police Complex |
| | | 2. South College Parking Lot |
| | | 3. Wastewater Treatment Plant |
| | | 4. Southside Community Building |
| | | 5. Southside Park |
| | | 6. Central Cemetery |
| | B. | Presentation – Golf Cart Ordinance |
| | 8. | <u>City Manager’s Report</u> |
| | 9. | <u>Questions and Comments From Mayor and Council</u> |
| | A. | Reports from Appointed Representatives on Outside Boards – Council Member Tom Rowe |
| | 10. | <u>Closed Session to Consult with City Attorney-G.S.143-318-11(a)(4)</u> |
| | 11. | <u>Adjournment</u> |

PERSONS WANTING TO SPEAK ON AN AGENDA ITEM MUST SIGN IN WITH THE CITY CLERK PRIOR TO THE MEETING. PERSONS WANTING TO BE PLACED ON THE AGENDA FOR THE NEXT MEETING MUST CONTACT THE CITY MANAGER AT LEAST SEVEN WORKING DAYS BEFORE THE MEETING.

The City of Newton does not discriminate on the basis of disability in the provision of its services as charged by the City Council of the City of Newton. All meetings are held in accessible facilities. Any person with a disability needing special accommodations should contact Teresa Laffon, ADA Coordinator, at least 48 hours prior to the scheduled meeting.

**MINUTES
REGULAR MEETING OF THE NEWTON CITY COUNCIL**

July 12, 2016 – 7 p.m.

The regular meeting of the Newton City Council was held at 7 p.m. Tuesday, July 12, 2016 at Newton City Hall.

PRESENT: Mayor Anne P. Stedman, Mayor Pro Tem John Stiver and Council Members Tom Rowe, Robert C. Abernethy, Jr., Jerry Hodge, and Jody Dixon

ABSENT: Council Member Wes Weaver

STAFF: City Manager Todd Clark, City Clerk Amy S. Falowski, City Attorney John Cilley, City Department Heads and members of the management team

ITEM 1: CALL TO ORDER

Mayor Anne P. Stedman welcomed everyone and called the meeting to order.

ITEM 2: OPENING Invocation and Pledge of Allegiance

Council Member Robert C. Abernethy, Jr. provided the invocation and Pledge of Allegiance.

ITEM 3: APPROVAL OF MINUTES

Upon motion duly made by Council Member Robert C. Abernethy, Jr., seconded by Mayor Pro Tem John Stiver, it was unanimously RESOLVED:

That the Regular Minutes of the June 7, 2016 City Council meeting be –
APPROVED.

ITEM 4: CONSIDERATION OF CONSENT AGENDA ITEMS

Upon motion duly made by Council Member Jerry Hodge, seconded by Council Member Robert C. Abernethy, Jr., it was RESOLVED:

That the Consent Agenda be – APPROVED

- A. Sewer Adjustments
- B. Proclamation – July is Recreation and Parks Month
- C. Proclamation – In Recognition of the Service and Career of J. Thomas Lundy
- D. Consideration of Commission/Committee Membership Appointments:
 - Jessica Hoffman – Business Advisory Committee
 - Jeff Kelley – Business Advisory Committee
 - Aisha Hope – Recreation Committee
 - Mary Bess Lawing – Recreation Committee
- E. Consideration of Public Fee Structure – 2016 Soldiers Reunion Activities

(Ordinances, Resolutions and Proclamations are hereby referenced and on file in the Office of the City Clerk)

ITEM 5: **COMMENTS FROM THE PUBLIC: PEOPLE WHO WISH TO COMMENT ON NON-AGENDA ITEMS ARE ASKED TO SIGN IN WITH THE CITY CLERK PRIOR TO THE MEETING.**

Mayor Anne P. Stedman asked if anyone present would like to make comment concerning non-agenda items. No one appeared.

ITEM 6: **Public Hearing**

A. Special Use Permit – Bennett’s Funeral Home

Mayor Stedman stated that this Public Hearing will be held at the August 2, 2016 meeting.

ITEM 7: **Old Business**

A. Consideration to Accept Offer to Purchase Property Located at 1000 N Ashe Avenue

Assistant City Manager Sean Hovis stated that the Newton City Council has formally declared a parcel of land located at 1000 N Ashe Ave in Newton as surplus property.

Mr. Hovis stated that Mr. James E. Brackett submitted a bid on May 12, 2016 in the amount of \$2,200. In accordance with North Carolina General Statute §160A-269, “when an offer is made and the council proposes to accept it, the council shall require the offeror to deposit five percent (5%) of his bid with the city clerk, and shall publish a notice of the offer.”

Mr. Hovis stated that additionally, the statute requires that the public notice include a general description of the property, the amount and terms of the offer, and a notice that within 10 days any person may raise the bid by not less than ten percent (10%) of the first one thousand dollars (\$1,000) and five percent (5%) of the remainder. If an upset bid is offered, the bidder must deposit (5%) of his increased bid with the City Clerk and the Clerk must re-advertise the offer at the increased bid. Mr. Hovis explained this procedure shall be repeated until no further qualifying upset bids are received, at which time the council may accept the offer and sell the property to the highest bidder. The Statute also provides that the Council may at any time reject any and all offers.

Mr. Hovis stated that as per City Council action on May 17th, City Staff began the procedures set forth in NCGS §160A-269 for the upset bid process. No other offers were made during the 10 day upset bid period.

Upon motion duly made by Council Member Robert C. Abernethy, Jr., seconded by Mayor Pro Tem John Stiver, it was unanimously RESOLVED:

That Offer to Purchase Property Located at 1000 N Ashe Avenue be – ACCEPTED.

ITEM 8: **New Business**

A. Consideration to Adopt Resolution for the Downtown County Government Center Connection (A Street) LAPP (Locally Administered Project Program) Grant Application

Planning Director Randy Williams stated the Locally Administered Projects Program (LAPP) was adopted by the Greater Hickory Metropolitan Planning Organization (GHMPO) to be used by the GHMPO to prioritize and program all projects in the region that use federal funding. This process involves a once-a-year call for all local highway, transit, bicycle and pedestrian projects, and will result in

an annual program of projects added to the GHMPO's Metropolitan Transportation Improvement Program (MTIP).

Mr. Williams explained that as a Transportation Management Area (TMA), the GHMPO will receive a direct allocation of approximately \$2,700,000 in Surface Transportation Program Direct Attributable (STP-DA) and \$200,000 in Transportation Alternatives Program (TAP) funding annually. He stated these funds are distributed to local jurisdictions by application for grant funds to be used for transportation related activities and require a minimum 20% cash match.

Mr. Williams stated over the last year, the City Council has adopted the Streetscape Master Plan and Strategic Growth Plan which detail the improvements and priorities for the City of Newton for the future. He explained that within those plans are design and implementation recommendations to enhance and reinforce the city's downtown as an attractive and active place.

Mr. Williams stated the selected project is the A Street corridor location due to its connection to Catawba County Government and Justice Center, Pin Station and Expo Center, Honey's IGA Supermarket and Downtown Newton combined with the high traffic counts. This sidewalk and bike lane improvement project was identified in this application was chosen based on the connections to the existing sidewalk network, closing gaps in the sidewalk network, providing a sidewalk on a street with a high traffic volume, connecting business centers notably the County Government Center and Downtown Newton, and serving adjoining neighborhoods.

Mr. Williams stated that as quoted in the Streetscape Master Plan, "It is essential to Newton's economic future that...visitors arrive in downtown Newton and, once there, find an attractive and vibrant downtown. Likewise vehicular wayfinding and pedestrian and bike connections to and from the adjacent neighborhoods and to and from the nearby Catawba County Government Center will all encourage increased downtown visitation and increased economic activity."

Mr. Williams stated that planning staff outlined the potential project and working closely with the Public Works staff, determined the required improvements necessary and a cost estimate for the project. The project consists of the planning, design, engineering, and administration to construct a combination of a protected bikeway and bike lane improvements, sidewalk construction and ADA improvements with connections in the gaps to the partial sidewalk network will allow users a more safe multi-modal connection between the areas. Mr. Williams stated that it also includes the replacement of waterlines and moving the utility poles for power lines which must be relocated as a part of these improvements and to conform to the federal standards for construction.

Mr. Williams stated the overall project cost estimate is \$1,900,000.00. The grant fund request to be submitted is \$1,520,000 and City required 20% match is \$380,000.

Council Member Robert C. Abernethy, Jr. asked if the powerlines leaving downtown would remain above ground. Mr. Williams stated that

Council Member Jerry Hodge asked how many employees work at the Government Center, and stated that this would invite that population in to downtown. Mr. Williams stated that he did not know how many employees work at the Government Center. Mr. Hodge stated that would impact Newton's downtown.

Council Member Abernethy asked about the completion time and whether the city's match could be spread out over that time frame. Mr. Williams stated that it is about a five year completion time frame and that yes, the match could be spread over that time.

Council Member Tom Rowe asked if there would be sidewalks on both sides of the road, Mr. Williams stated that there would be. Mr. Rowe asked if they would be all the way to Pin Station, Mr. Williams stated that is definitely the first option.

Upon motion duly made by Mayor Pro Tem John Stiver, seconded by Council Member Jerry Hodge, it was unanimously RESOLVED:

That the Locally Administered Project Program Sidewalk Grant Application be – APPROVED.

B. Consideration to Adopt Resolution for the Building Reuse Program
Temprano Techvestors Building Reuse Application

Project Coordinator Sherry Long explained that Mr. Luke Walling proposes to utilize a vacant building located at 2015 Northwest Boulevard for a new business startup called Temprano Techvestors, Inc. In an effort to renovate the property, Mr. Walling is seeking the assistance of the City of Newton to access grant funding through the State of North Carolina Department of Commerce, Building Reuse Grant program.

City Manager Todd Clark and Ms. Long explained that in order to access these funds, the applicant must be a unit of local government located in either a Tier I or Tier II economically distressed County. Additionally, the proposed project must be a priority industry with a business classification of manufacturing, warehousing, wholesale trade, courier services, central administrative offices, electronic mail order services, computer systems design, software publishers, software reproducing, or data processing services. They stated that Temprano Techvestors meets the priority industry test and the City of Newton is located within a Tier II economically distressed county.

Ms. Long stated the applicant must also demonstrate that new jobs are being created and the amount of the grant award is tied to the number of jobs created. Mr. Walling is committed to the creation of 21 new full time jobs with an average weekly wage of \$51,906. Mr. Clark stated that there is a copy of the Pre-Application Form in the agenda packet that includes a complete list of the jobs being created and the associated gross annual wages associated with each.

Mr. Clark stated that a 5% local match is required for the grant. A complete break-down of costs associated with this \$520,188 renovation project is included on the Pre-Application Form which includes a 5% match of \$12,688 from the City of Newton, \$253,750 from the Building Reuse Grant, and \$253,750 from Temprano Techvestors, Inc. Mr. Clark stated that the City Council would need to make an appropriation of \$12,688 from Fund Balance if and when, a grant is awarded

Mr. Clark stated that the suggested action is for City Council to adopt Resolution 10-2016 authorizing the City Manager to execute and file an application of behalf of the City of Newton with the NC Department of Commerce Rural Economic Development Division for a Building Reuse Grant and furnishing any further information to the State of North Carolina as outlined in the Resolution.

Mayor Pro Tem John Stiver stated that he appreciates the work that has been done on this project. Ms. Long stated that she would love for this to be the first of many projects of this kind. Council Member Jerry Hodge questioned the 21 employees, Ms. Long stated that they positions would have to be created and held for six months.

Upon motion duly made by Mayor Pro Tem John Stiver, seconded by Council Member Tom Rowe, it was unanimously RESOLVED:

That Resolution 10-2016 – Building Reuse Grant Application be – ADOPTED.

(Ordinances, Resolutions and Proclamations are hereby referenced and on file in the Office of the City Clerk)

C. Consideration of Westside Drive Sewer Engineering Contract with McGill and Associates and Approval of Intent to Reimburse

Public Works and Utilities Director Dusty Wentz stated that inspection of the existing gravity sewer from W. K St., cross country headed southwest, and off of Westside Dr. has revealed failure of the clay 12" sewer line. Two particularly concerning points of failure is the section of gravity sewer under Southwest Blvd and a section behind the homes on the south side of Westside Dr. This realignment project is listed on the 10 year CIP for FY 2023-2024. Mr. Wentz explained that due to the existing condition of the sewer line, emergency replacement is required.

Mr. Wentz stated that closed circuit television camera (CCTV) inspection indicates that between half and three quarters of the dry conditions flow is exiting the sewer main. He explained that staff cannot currently find any evidence of sewer entering State waters, and is unsure where the escaping sewer is flowing. Conversely, given the location of the sewer adjacent to Westside Dr., this section of pipe is almost certainly a point of a very large amount of inflow during wet weather conditions.

The project consists of survey, engineering, and replacement of approximately:

- 2,500 LF of 10" Sewer
- 500 LF of 8" sewer
- 12 Manholes
- 24 residential sewer taps
- 60 LF of steel encasement inside of the NCDOT right-of-way

Mr. Wentz stated that staff released an RFQ in June, and has selected McGill and Associates as the most qualified firm from the respondents.

Mr. Wentz stated that multiple actions are requested at this time. First, staff requests that council approve the attached Intent to Reimburse from borrowing for the full amount of the project, estimated at \$1,100,000. Second, staff requests that council approve the provided contract with McGill and Associates in order to begin survey and engineering design services immediately. Mr. Wentz stated that staff will return to council once design is complete, bids have been received, and a construction contract is ready for consideration.

City Manager Todd Clark explained that this project will leapfrog several water/sewer projects which will cause them to move back on the list.

Council Member Tom Rowe asked if work would begin on the east side, Mr. Wentz said that it would. Mr. Clark added that resurfacing is part of the project. Council Member Jerry Hodge asked if the project would cause an impact on citizens. Mr. Wentz stated that crews would try to work when homeowners are away, but that there would be a significant impact. Mr. Hodge asked how many days would the homeowners be impacted. Mr. Wentz said until Christmas. Mayor Pro Tem John Stiver asked if notice would be sent to the residents. Mr. Wentz stated that there would be contact with them, Mr. Stiver stated that they should be reminded that this is a positive thing, to solve a problem. Mr. Clark stated that there will not be any mess left. Mr. Hodge asked about damage to driveways. Mr. Wentz stated that any damage would be repaired or replaced.

Council Member Tom Rowe asked if 12" line would be big enough for the future, Mr. Wentz stated that for the most part 12" lines would be more than enough.

Finance Director Serina Hinson explained the borrowing procedure and reporting to the Local Government Commission.

Council Member Robert C. Abernethy, Jr. stated that paving is a concern.

Upon motion duly made by Council Member Jody Dixon, seconded by Mayor Pro Tem John Stiver, it was unanimously RESOLVED:

That Resolution 12-2016 Declaring Official Intent to Reimburse Expenditures be – ADOPTED.

Upon motion duly made by Mayor Pro Tem John Stiver, seconded by Council Member Tom Rowe, it was unanimously RESOLVED:

That Agreement for Engineering Services – McGill Associates, P.A. be – APPROVED.

(Ordinances, Resolutions and Proclamations are hereby referenced and on file in the Office of the City Clerk)

ITEM 9: City Manager's Report

- July 19th – Economic Development Corporation 2016 Annual Meeting at Hickory Metro Convention Center, 11:45 a.m.
 - July 23rd – Motorcycle, Truck, and Car Show at Southside Park, 11 a.m. – 5 p.m.
 - July 22nd – Eddie Copeland Retirement, Water Treatment Plant, 11:30 a.m.–1 p.m.
 - July 26th – WPCOG Policy Board Meeting at Conover Station, 6:00 p.m.
 - August 2nd – Workshop prior to Regular Meeting to Discuss Stormwater Enterprise Fund – 6:00 p.m.
 - August 11-13th – ElectriCities Annual Conference, Concord
- Streetscape Project Update
 - Water and Sewer Rate Study Update
 - Paving Projects Update
 - Parks & Recreation Master Plan Update
 - Marketing & Branding Study Update
 - LAPP Grant Update
 - Electric Cost of Service Study Update
 - Pedestrian Plan RFP Update

ITEM 10: Questions and Comments from Mayor and Council

Mayor Anne P. Stedman asked if any Council Members would like to make any comments. There were none.

Mayor Anne Stedman gave reports on the DNDA, including an update on the Folk Art Festival, and reminders of Spooktacular, and Light up the Town. Mayor Stedman stated that the artists for the Folk Art Festival have so far exceeded expectations and that the festival will be October 1, 2016, 10:00 a.m. until 4:00 p.m.

Mayor Pro Tem John Stiver stated that the Tree Board will meet August 1st. He stated that there is nothing new to report on ElectriCities or Parks and Recreation at this time.

ITEM 11: Closed Session to Consult with the City Attorney – G.S. 143-318-11(a)(4) and G.S. 143-318-11(a)(5)

Upon motion duly made by Council Member Tom Rowe, seconded by Mayor Pro Tem John Stiver, it was unanimously RESOLVED:

That the City Council enter CLOSED SESSION per G.S. 143-318-11(a)(4) and G.S. 143-318-11(a)(5)

Council Member Tom Rowe made the motion to go back into open session, which was seconded by Mayor Pro Tem John Stiver; All Ayes.

Upon motion duly made by Mayor Pro Tem John Stiver, seconded by Council Member Hodge, it was unanimously RESOLVED:

That Council Member Robert C. Abernethy be RECUSED from the vote to Consider an Economic Development Agreement with Peoples Bank

Upon motion duly made by Mayor Pro Tem John Stiver, seconded by Council Member Tom Rowe, it was unanimously RESOLVED:

That Economic Development Agreement with Peoples Bank and the City of Newton be – APPROVED.

ITEM 12: **Adjournment**

Upon motion duly made by Mayor Pro Tem John Stiver, seconded by Council Member Robert C. Abernethy, Jr., it was unanimously RESOLVED:

That the Meeting be – ADJORNED

Amy S. Falowski, City Clerk



Anne P. Stedman, Mayor

CITY OF NEWTON

Inter-office Correspondence

TO: E. Todd Clark, City Manager **DATE:** July 6, 2016

RE: Tax Release – June 2016

FROM: Serina T. Hinson, Finance Director

The following tax releases has been received from the Catawba County Tax Collector.
The reason for the release is annotated beside the name.

Tax Year	Tax Release Number	Name	Reason	Amount of Release
2014	72	Murray, Fred Neil	Small underpayment	\$0.06

Should you have any questions or need clarification, please notify. Releases are submitted as required by NCGS § 105-381(b).

CITY OF NEWTON

Sewer Adjustments

TO: E. Todd Clark, City Manager **DATE:** July 27, 2016

RE: Sewer Adjustments – August 2, 2016

FROM: Serina Hinson, Finance Director

The following sewer adjustment is recommended for approval. The adjustment is recommended as a result of a water leak at the service address or a pool fill up.

Account Number	Name	Service Address	Adjustment Period	Amount of Adjustment
23000880-003	Wendi Gonzalez	622 W 6 th St	June (Pool)	\$62.37
5000320-001	Denise K Tuthill	504 E J St	May - June	\$76.45

Backup documentation to support each adjustment is on file in the Finance Department. Should you have questions or require further clarification, please notify.

CITY OF NEWTON
REQUEST FOR COUNCIL ACTION

DATE: April 15, 2015

TO: E. Todd Clark, City Manager

FROM: Serina Hinson, Finance Director

CONSIDERATION OF: Budget Ordinance Amendment to Carry Forward Outstanding Purchase Orders at June 30, 2016

Approved for Council Consideration

As of June 30, 2016, the City of Newton had \$584,550 in outstanding purchase orders. In accordance with Governmental Accounting Standards, these purchase orders will not be recognized as expenditures in Fiscal Year 2016 since they were not complete. However, for reporting purposes, these purchase orders will be reflected as a reservation of fund balance. This is a normal and routine practice of all counties and municipalities. These purchase orders are still legal, valid obligations of the City.

The attached budget ordinance reflects the necessary appropriations to reinstate these purchase orders in Fiscal Year 2017.

Action Suggested:

Motion to approve the attached Budget Ordinance Amendment to provide funding for the outstanding purchase orders at June 30, 2016

ORDINANCE #2016-17

A BUDGET ORDINANCE AMENDMENT TO CARRY FORWARD OUTSTANDING PURCHASE ORDERS AT JUNE 30, 2016 AND APPROPRIATE FUNDS FOR THESE OUTSTANDING ENCUMBRANCES IN FISCAL YEAR 2017

WHEREAS, The City Council of the City of Newton have adopted a Budget Ordinance for fiscal year beginning July 1, 2016, and ending June 30, 2017, in accordance with the General Statutes of the State of North Carolina, and

WHEREAS, The City of Newton has outstanding purchase orders encumbered at June 30, 2016, that were not received before year end; therefore, those will be received and payable in the current fiscal year, and

WHEREAS, The City Council desires to honor these encumbrances and appropriate funds in the budget for Fiscal Year 2017.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF NEWTON, NORTH CAROLINA, THAT:

THE FOLLOWING SOURCE OF REVENUE AND APPROPRIATION ARE HEREBY APPROVED.

	General Fund	
Revenue		
Fund Balance Appropriation	11-0000.3990	\$ 255,400
Appropriation		
Information Systems		
Other Services	11-4132.6990	1,100
Streets and Drainage		
Signs and Supplies	11-4252.5210	5,200
Sanitation		
Purchase for Resale	11-4254.5700	950
Capital Outlay – Motor Vehicles	11-4254.8400	202,800
Public Safety – Police		
Safety & Uniform Supplies	11-4310.5300	5,400
Capital Outlay – Other Equipment	11-4310.8500	30,850
Public Safety – Fire		
Vehicle Repair/Maintenance	11-4340.6530	1,200
Planning		
Professional Services – Other	11-4910.4990	2,500
Parks and Recreation - Admin		
Non-Capital Outlay	11-6120.7900	2,400
Parks and Recreation – Pool		
Chemicals and Supplies	11-6123.5330	3,000

Water & Wastewater Fund

Revenue

Fund Equity Appropriation	61-0000.3995	\$ 31,100
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Appropriation**Water & Wastewater Operations**

Professional Services – Engineering	61-7100.4940	3,500
Professional Services – Other	61-7100.4990	1,100
Fire Hydrant Supplies	61-7100.5230	550
Distribution Supplies and Maintenance	61-7100.5460	950
Capital Outlay – Building/Building Imp.	61-7100.8800	25,000

Electric Fund

Revenue

Fund Equity Appropriation	63-0000.3995	\$ 298,050
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Appropriation

Professional Services – Other	63-7201.4990	15,200
Generator Repair/Maintenance	63-7201.6560	82,750
Capital Outlay – Motor Vehicles	63-7201.8400	200,100

Adopted this 2nd day of August, 2016.

Anne P. Stedman, Mayor

Attest:

Amy S. Falowski, City Clerk



CITY OF NEWTON REQUEST FOR COUNCIL ACTION

DATE: July 28, 2016

TO: E. Todd Clark, City Manager

FROM: Dusty Wentz

CONSIDERATION OF: Highway 16 Maintenance (Mowing) Award of Contract for Mowing

Approved for Council Consideration

Background:

At Council's direction, staff has moved forward with bidding Hwy 16 mowing. Bids were received on July 28, 2016. The results are as follows (cost per mowing):

Jeffrey Cline	\$1,100
Kip Robinson	\$1,200
Landscape Design	
Sta-Green Lawn	
Service	No Bid

Assuming one mowing per month for the remainder of the mowing season (August – October), and the first half of next year's mowing season (March – July), the estimated total cost for 2017 fiscal year is \$7,700. This amount includes seven (7) mowings. According to bid documents, the actual frequency of mowing is to be determined by the City. If dry weather persists, mowing frequency can be reduced, or alternatively, if growing conditions become more optimal, the frequency can be increased at the direction of the city.

NCDOT has estimated reimbursement to the city for \$7,514.78. This amount corresponds with the cost NCDOT incurs to mow the easement twice a year, and will be adjusted based on actual bid prices. NCDOT requires that the full easement mowing be completed twice a year.

Last year, the City was invoiced \$5,450 for a total of 6 mowings. After NCDOT's reimbursement, the City spent \$1,692.61 on mowing Hwy 16.

Based on the City receiving the estimated NCDOT reimbursement, the total cost to the city will be \$185.22. This amount is subject to change based on frequency of maintenance mowings and the actual reimbursement received from NCDOT.

\$7,000 was budgeted for mowing Hwy 16 this year.

Action Suggested:

Staff requests council award of the Hwy 16 Maintenance mowing contract to Jeffrey Cline in the amount of \$7,700 (\$1,100 per mowing).

CITY OF NEWTON

REQUEST FOR COUNCIL ACTION

TO: E. Todd Clark, City Manager

DATE: July 27, 2016

FROM: Kevin Yoder, Fire Chief

ACTION REQUESTED: Approval of the pyrotechnics display permit for the American Legion Fairgrounds.

Approved for Council Consideration

1. NC General Statute §14-410 states the City Council has to approve any discharge of pyrotechnics at any public exhibit or concert in their jurisdiction.
2. The American Legion Fairgrounds has requested a permit to discharge pyrotechnics during the period of August 31st - September 5th, 2016 at approximately 10:00 pm-11:00 pm each night. This will result in six separate evenings that pyrotechnics will be displayed.
3. The American Legion has applied to the City of Newton Fire Department for a permit to discharge pyrotechnics upon approval of the authority having jurisdiction and subsequent inspection by the City of Newton Fire Department each night prior to the pyrotechnics display.
4. It is a requirement of the NC General Statute that the responsible party displaying pyrotechnics be certified by the Office of the State Fire Marshal.
5. Attached please find a copy of the pyrotechnics display permit issued to the American Legion Fairgrounds by the City of Newton Fire Department, Certificate of Liability Insurance, Catawba County Board of Commissioners Resolution No. 2010-13, NC General Statute §14-410, a copy of the NC Outdoor Pyrotechnics Display Operators License for Jason M. Vaughn, Tara Locklin Vaughn, Rodney Gene Morrison, and James Stephen Locklin.

ACTION SUGGESTED: Approval of the permit for pyrotechnics display at the American Legion Fairgrounds from August 31st - September 5th, 2016. We have attached a copy for your convenience.

CITY OF NEWTON FIRE DEPARTMENT PERMIT TO POSSES AND DISPLAY FIREWORKS

Application having been made in accordance with the laws of the State of North Carolina (GS 14-413), as modified in session law 1983, chapter 116, and the City of Newton Fire Prevention Code, (Sec. 12-47) this permit is issued to:

DATE: August 31, 2016 –September 5, 2016

NAME Zambelli Fireworks Internationale LICENSE# 8-PA-073-20-5B-02043

Proper bond of \$10,000,000.00 Has been acquired: X Yes No

Giving them the right to exhibit displayed fireworks on the above dates at 22:00 hours, at
Hickory American Legion Fairgrounds

in connection with Hickory American Fair celebration.

CITY CLERK (Approval of City Col.) Date

FIRE CHIEF Date

FIRE OFFICIAL Date

THE FIRE OFFICIAL SHALL SEIZE, TAKE, REMOVE, OR CAUSE TO BE
REMOVED AT THE EXPENSE OF THE OWNER ALL STOCKS OF FIREWORKS IN THE
EVENT OF CARELESSNESS TO PRESERVE LIFE AND PROPERTY.



CITY OF NEWTON FIRE DEPARTMENT
Fire Prevention Bureau
Phone: (828) 695-4284 Fax: (828) 323-7476



OPERATIONAL USE PERMITS

Occupant Hickory American Legion Fair Date 7/26/2016
Address 1127 Conover Blvd. Newton, NC 28658 Phone No. 828-464-5433

In accordance with the NC Fire Code an operational permit is required to conduct certain operations. The following Operational Use Permits are included in the General Inspection Use Permit and if approved, will be listed as a provision. Approval to conduct these operations shall not be construed as permission to violate or set aside any of the provisions of the applicable technical codes or standards that regulate those operations. Deviation from the applicable operation(s) would require that another permit to be obtained.

Fire Inspector Shall Initial All Applicable Operations:

_____ Amusement Buildings: An operational permit is required to operate a special amusement building.

_____ Covered Mall Buildings: An operational permit is required for the following:

- _____ 1. The placement of retail fixtures and displays, concession equipment, displays of highly combustible goods and similar items in the mall.
- _____ 2. The display of liquid or gas fired equipment in the mall.
- _____ 3. The use of open flame or flame producing equipment in the mall.

☒ Explosives: An operational permit is required for the manufacture, storage, handling, sale or use of any quantity of explosive, explosive material, fireworks, or pyrotechnic special effects within the scope of Chapter 33.

Exception: Fireworks allowed by NC General Statute 14-414.

August 31, 2015 - September 5

_____ Flammable and Combustible Liquids: An operational permit is required as follows:

- _____ 1. To operate tank vehicles, equipment, tanks, plants, terminals, wells, fuel-dispensing stations, refineries, and similar facilities where flammable and combustible liquids are produced, processed, transported, stored, dispensed or used.
- _____ 2. To manufacture, process, blend or refine flammable or combustible liquids.
- _____ 3. To engage in the dispensing of liquid fuels into the fuel tanks of motor vehicles at commercial, industrial, governmental or manufacturing establishments.
- _____ 4. To utilize a site for the dispensing of liquid fuels from tank vehicles into the fuel tanks of motor vehicles at commercial, industrial, governmental or manufacturing establishments.

_____ Fumigation and Thermal Insecticidal Fogging: An operational permit is required to operate a business of fumigation or thermal insecticidal fogging and to maintain a room, vault or chamber in which a toxic or flammable fumigant is used.

_____ Liquid or Gas-Fueled Vehicles or Equipment in Assembly Buildings: An operational permit is required to display, operate or demonstrate liquid or gas-fueled vehicles or equipment in assembly buildings.

_____ Spraying or Dipping: An operational permit is required to conduct a spraying or dipping operation utilizing flammable or combustible liquids or the application of combustible powders regulated by Chapter 15.

_____ Other:

_____ Remarks/Conditions:

Occupant Signature Gary Price Fire Inspector _____
Name of Occupant Gary Price Title _____
(Please Print) (Please Print)



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)
07/25/2016

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER	Allied Specialty Insurance, Inc. 10451 Gulf Blvd Treasure Island, FL 33706-4814 1-800-237-3355	CONTACT NAME:	
		PHONE (A/C, No, Ext):	FAX (A/C, No):
INSURED	Zambelli Fireworks MFG Co Inc etal 20 South Mercer Street New Castle, PA 16101	E-MAIL ADDRESS:	
		INSURER(S) AFFORDING COVERAGE	
		INSURER A: T.H.E. Insurance Company	NAIC # 12866
		INSURER B:	
		INSURER C:	
		INSURER D:	
		INSURER E:	
		INSURER F:	

COVERAGES

CERTIFICATE NUMBER:

REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL SUBR INSR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	GENERAL LIABILITY <input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input checked="" type="checkbox"/> PROJECT <input type="checkbox"/> LOC	X	CPP0103167-03	02/01/2016	02/01/2017	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 100,000 MED EXP (Any one person) \$ N/A PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ PRODUCTS - COMP/OP AGG \$ 2,000,000 Protection & Indemnity \$ 1,000,000 COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000
A	AUTOMOBILE LIABILITY <input checked="" type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS <input checked="" type="checkbox"/> SCHEDULED AUTOS NON-OWNED AUTOS		CPP0103167-03	02/01/2016	02/01/2017	BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$
A	UMBRELLA LIAB <input checked="" type="checkbox"/> EXCESS LIAB <input checked="" type="checkbox"/> OCCUR CLAIMS-MADE DED <input type="checkbox"/> RETENTION \$		ELP0011081-03	02/01/2016	02/01/2017	EACH OCCURRENCE \$ 9,000,000 AGGREGATE \$ 9,000,000 \$
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory In NH) <input type="checkbox"/> Y/N If yes, describe under DESCRIPTION OF OPERATIONS below	N/A				WC STATUTORY LIMITS <input type="checkbox"/> OTHER <input type="checkbox"/> E.L. EACH ACCIDENT \$ E.L. DISEASE - EA EMPLOYEE \$ E.L. DISEASE - POLICY LIMIT \$
A	Inland Marine / Hul.		GPP0103167-03	02/01/2016	02/01/2017	Hull Limit \$ 900,000 Show Limit \$ 1,500,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (Attach ACORD 101, Additional Remarks Schedule, if more space is required)

Display Date: August 31, September 1-4, 2016

Rain Date: n/a

Location: Hickory American Leg'on Fair

RE: General Liability, the following are named as additional insured in respects to the operation of the named insured only:

Hickory American Legion Fair; City of Newton

CERTIFICATE HOLDER

Hickory American Legion Fair
PO Box 1844
Hickory, NC 28603

513244-513248

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTI

reserved.

**American Legion Fair
Hickory, NC**

MATERIAL LIST

August 31st thru September 4th, 2016

SHELL DESCRIPTION	QUANTITY
Three Inch Assorted Shells	120
Four Inch Assorted Shells	72

PROCEDURE FOR FAILURES

In the event that a shell fails to ignite or malfunctions we will follow the NFPA 1123 "Post-Display Operations", specifically 9.5.2.1 – Unfired shells shall be permitted to either be 1) fired in accordance with the code or 2) packaged and returned to the supplier in compliance with all applicable regulations.

Federal Explosives License/Permit (18 U.S.C. Chapter 40)

19



DEPARTMENT OF JUSTICE

Bureau of Alcohol, Tobacco,
Firearms and Explosives

Martinsburg, WV 25405

July 15, 2016

Zambelli Fireworks Manufacturing Co.
Zambelli Fireworks Internationale
20 South Mercer Street
New Castle, PA 16101

901090:CRR/CDM
5400
File Number: 8-PA-02043

Premises Address: 20 South Mercer Street, New Castle, PA 16101

Dear Sir:

This letter acknowledges receipt of your timely application to renew your Federal explosives license/permit.

The Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) is not able to process your application prior to the expiration date of your license/permit. However, Federal law allows you to continue operations under your current license/permit until such time as ATF completes processing your application. See 5 U.S.C. § 558. This letter, or as explained below, a follow-up letter, will serve as your license/permit until we complete action on your renewal. It is referred to as a Letter of Authorization (LOA).

Since we have not completed processing your application, you may supply a copy of this letter to other licensees/permittees, e.g., your distributors, for the next six months (or until we complete action on your renewal, if that occurs in less than six months) as evidence of your licensed/permitted status. If we have not completed processing your application for renewal within six months of the date of this letter, we will send you another letter, which will also be valid for six months (or until we complete action on your renewal, if that occurs in less than six months). This is of course contingent upon your remaining entitled to continue operations under your current license/permit.

Please direct questions or concerns regarding this letter to Cindy McKinney at (304) 616-4408 or Cynthia.mckinney@atf.gov.

Sincerely,

Christopher R. Reeves
Chief, Federal Explosives Licensing Center

ATF web address: www.atf.gov

Current Pyrotechnic License Holders

Select License Type of Interest

- | License Type | License Level |
|---|---|
| <input checked="" type="radio"/> Pyrotechnic 1.3G | <input checked="" type="radio"/> Operator |
| <input type="radio"/> Pyrotechnic 1.4G | <input type="radio"/> Assistant |
| <input type="radio"/> Proximate Audience | |

Get List

Get License Holder Information

Pyrotechnic License Number Driver's License Number

3132

Search for License

Holder's Full Name: Jason M. Vaughan
Business Name: Zambelli Fireworks
Government ID By: North Carolina
Government ID Type: Driver License
ID Number: ****7255



License Number: 3132

License Type: 1.3G Pyrotechnic

License Level: Operator

License Status: Valid

Expiration Date: 06/25/2017

Current Pyrotechnic License Holders

Select License Type of Interest

- | License Type | License Level |
|---|---|
| <input checked="" type="radio"/> Pyrotechnic 1.3G | <input checked="" type="radio"/> Operator |
| <input type="radio"/> Pyrotechnic 1.4G | <input type="radio"/> Assistant |
| <input type="radio"/> Proximate Audience | |

Get List

Get License Holder Information

Pyrotechnic License Number Driver's License Number

3400

Search for License

Holder's Full Name: Tara Locklin Vaughan
Business Name: Zambelli Fireworks
Government ID By: North Carolina
Government ID Type: Driver License
ID Number: ****4291



License Number: 3400

License Type: 1.3G Pyrotechnic

License Level: Operator

License Status: Valid

Expiration Date: 06/22/2019



License Number: 3141

License Type: 1.3G Pyrotechnic

License Level: Assistant

License Status: Superseded

Expiration Date: 06/15/2017

Current Pyrotechnic License Holders

Select License Type of Interest

- | License Type | License Level |
|---|---|
| <input checked="" type="radio"/> Pyrotechnic 1.3G | <input checked="" type="radio"/> Operator |
| <input type="radio"/> Pyrotechnic 1.4G | <input type="radio"/> Assistant |
| <input type="radio"/> Proximate Audience | |

Get List

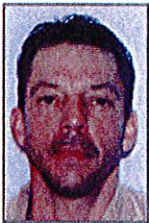
Get License Holder Information

Pyrotechnic License Number Driver's License Number

3131

Search for License

Holder's Full Name: Rodney Gene Morrison
Business Name: Zambelli International
Government ID By: North Carolina
Government ID Type: Passport
ID Number: *****1180



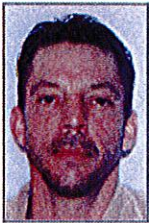
License Number: 3131

License Type: 1.3G Pyrotechnic

License Level: Operator

License Status: Valid

Expiration Date: 06/25/2017



License Number: 2189

License Type: 1.3G Pyrotechnic

License Level: Assistant

License Status: Valid

Expiration Date: 03/04/2016

Current Pyrotechnic License Holders

Select License Type of Interest

- | License Type | License Level |
|---|---|
| <input checked="" type="radio"/> Pyrotechnic 1.3G | <input checked="" type="radio"/> Operator |
| <input type="radio"/> Pyrotechnic 1.4G | <input type="radio"/> Assistant |
| <input type="radio"/> Proximate Audience | |

Get List

Get License Holder Information

Pyrotechnic License Number Driver's License Number

3089

Search for License

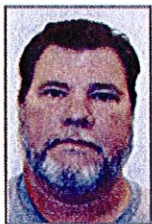
Holder's Full Name: James Stephen Locklin

Business Name: Zambelli Fireworks

Government ID By: North Carolina

Government ID Type: Driver License

ID Number: **1465



License Number: 3089

License Type: 1.3G Pyrotechnic

License Level: Operator

License Status: Valid

Expiration Date: 06/10/2019



License Number: 2188

License Type: 1.3G Pyrotechnic

License Level: Assistant

License Status: Superseded

Expiration Date: 03/31/2016

CITY OF NEWTON

REQUEST FOR COUNCIL ACTION

DATE: July 7, 2016

TO: E. Todd Clark, City Manager

FROM: Alex Fulbright, Assistant Planning Director

CONSIDERATION OF: Special Use Permit 2016-02 – Robbie Bennett.

Approved for Council Consideration

Background:

Attached with this memo is a copy of an application filed by Robbie Bennett. Mr. Bennett is seeking a Special Use Permit to allow him to locate a Funeral Parlor on NC Hwy 16. The subject site is located on the eastside of NC Hwy 16 just south of NC Hwy 10. The site comprises of two adjacent lots that are approximately 4 acres combined. According to Catawba County Tax Records the properties are identified as parcel number 3740-20-82-4491 and 3740-20-82-4131. The site is zoned R-20 and Funeral Parlors are permitted as a Class A Special Use within the R-20 District, with approval by the City Council.

Review:

A Special Use is a use that would not be appropriate generally without special study throughout the zoning district, but which is controlled by the number or size of location or relationship to adjoining neighborhood and which would promote the public health, safety, and welfare.

The applicant is proposing to construct a 14,000 square foot main building and a 4,800 office building. The site is located outside the City Limits but within the ETJ. The proposed facility would be served with city water and on-site septic system.

The zoning ordinance as it applies to Funeral Parlors as a special use in residential districts requires that the following standards be met.

- **Funeral parlors are permitted in residential districts that are zoned R-20 Single Family Residential.** The site which the applicant is applying for is zoned R-20.

- **The site shall have direct access to an arterial street as shown on the thoroughfare plan and the collector street plan.** The site fronts on NC 16 Hwy which is classified as an arterial street on the collector street plan.
- **All applicable state regulations governing Funeral establishments have been met.** The state regulation cannot be met until zoning approval has been granted.
- **Signage is subject to article VII of the Zoning Ordinance as it pertains to Churches and Civic Organizations.** Sign permits have not been applied for the proposed funeral parlor at this time. If a special use permit is granted all sign would have to comply with article VII of the Zoning Ordinance as it pertains to Churches and Civic Organizations.

Also, the use would have to comply with all required city regulations and standards; unless greater or different regulations are recommended and approved. Based on the site plan which is considered conceptual in nature; building appearance, landscaping, parking, stormwater, soil erosion, buffers & screening, and signage would be reviewed and approved when construction plans are submitted in order to obtain permits to begin construction. The attached site plan is provided to show bulk, relationship to the adjoining properties, and general position on the site, but is not considered to be complete for site plan development review for construction.

In addition to City regulations, the site will have to comply with all applicable Federal, State, and County regulations. Specifically, the proposed on-site septic system would have to be approved by the NC Board of Funeral Service and the State and County Environmental Health Departments.

Public notification:

Public notification procedures have been conducted in compliance to the City's Zoning Ordinance. A public notice was published in the Observer News Enterprise on July 22 and July 29, 2016. A notice was mailed to 24 property owners, including all owners of adjacent properties and those properties which fall within 100 feet of the adjacent tracts. In addition to the published notices and mailings, signs were placed at the site and will remain in place until Council takes action on this item.

The Planning Department has received one written response to the special use application which is attached to this memo.

Recommendation action:

The Planning Commission unanimously recommends to the City Council approval of this special permit as presented with the condition that the exterior lighting is limited to full cut off fixtures to minimize light spill onto adjoining properties.

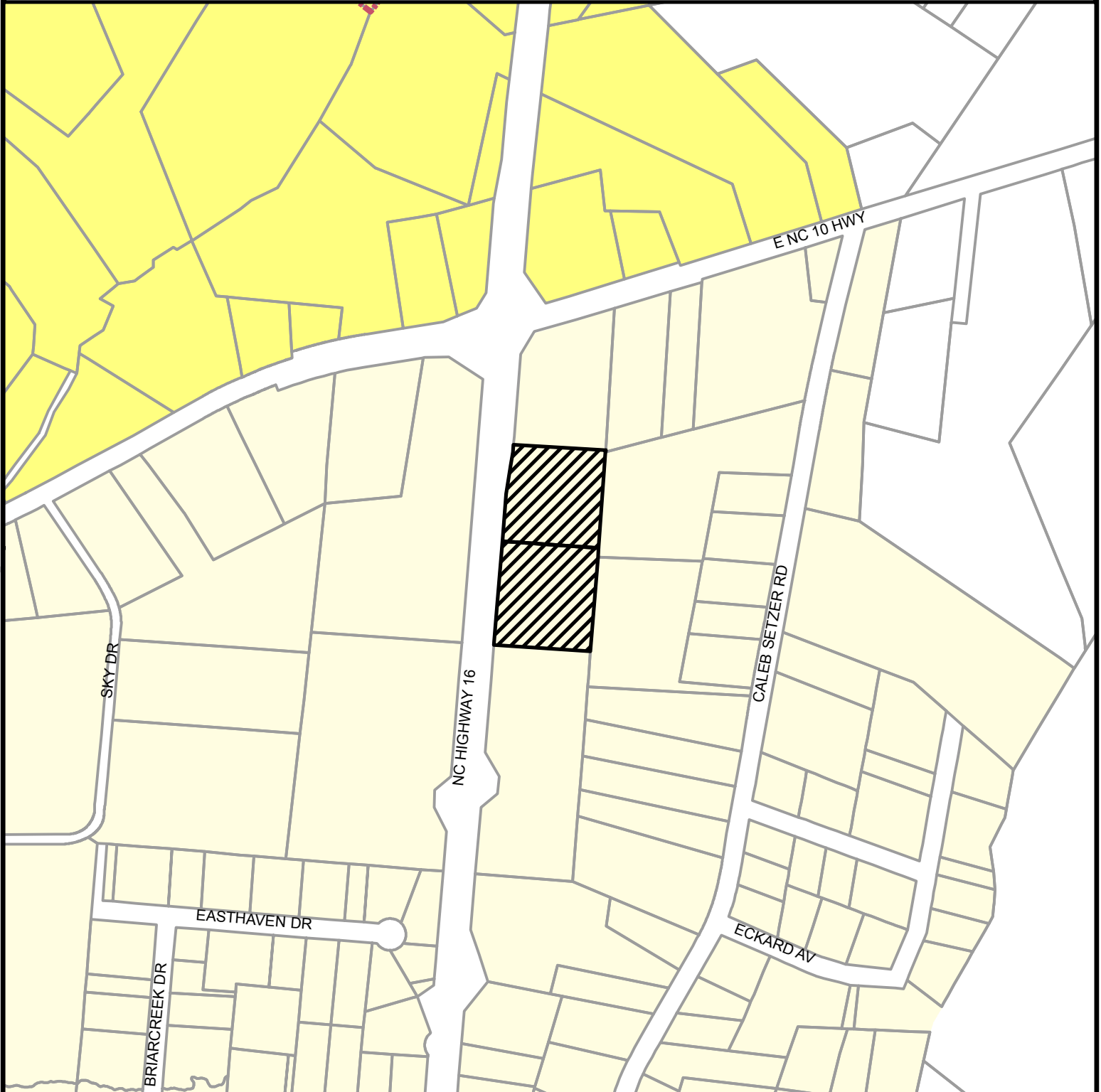
A review of the attached site plan should be discussed during the meeting and potentially further recommend conditions that are necessary to mitigate any potential negative impacts such a use might have on the surrounding area. Site conditions for this application could include, but not limited to, screening/buffering; landscaping; access management; signage; lighting; appearance and compliance with all associated development codes and regulations. This development is one of the first along NC 16 and will set a precedent on future development along the corridor.




The above recommendation is subject to the City of Newton City Council making the required findings as mentioned in the review. Also attached is a form entitled “Decisions on Special Use Permit, Newton City Council”; this should be resource in making a decision on the Special Use Permit.



Special Use #2016-02

Robbie Bennett
NC Highway 16



 City Limits  Single Family Residential (R-20)  Single Family and Manufactured Home Residential (R-20A)



NOT TO SCALE

SPECIAL USE PERMIT APPLICATION
CITY OF NEWTON, NORTH CAROLINA

Application #: 2016-02

Date: 5/27/2016

Application for CLASS A SPECIAL USE PERMIT (Circle either)

To the CITY COUNCIL, Newton, NC:

I, (We) the undersigned, so hereby petition the City Council of Newton to issue a

CLASS A SPECIAL USE PERMIT in the name (s) of Robert F. & Rhonda L. Bennett

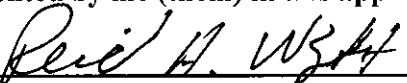
for the use of property located at 1855 E NC 10 Hwy, Newton, NC 28658

also known as Catawba County Tax Parcels 374020824491 & 374020824131

permitted by Section _____ of the Newton Zoning Ordinance.

<u>NAME OF APPLICANTS</u>	<u>ADDRESS</u>	<u>TELEPHONE NO.</u>
<u>Robert F. Bennett</u>	<u>PO Box 234 Newton NC 28658</u>	<u>828 465 2111</u>
<u>Rhonda L. Bennett</u>	<u>PO Box 234 Newton NC 28658</u>	<u>828 465 2111</u>

On behalf of the above listed applicants, I do hereby certify that all of the information presented by me (them) in this application is true to the best of my knowledge.


Authorized Applicant

5/27/2016
Date

- (1) This application must be accompanied by a site plan based upon survey prepared by a Registered Land Surveyor showing the exact location of all property lines, corner stakes, buildings, signs, parking spaces, loading areas as well as full and accurate description of the proposed use including its location, appearance and operational characteristics.
- (2) In addition, this application must include all relevant information needed to show compliance with the general and specific standards governing the Special Use in which is the subject of this application.
- (3) If title to the above described property is not in the same name of the applicant, then a letter from the owner signifying approval must also be submitted.

S-1



**NOW OR FORMERLY
EMILIO & ASHLEY VALENCIANA**

**NOW ON FORMERLY
MICHAEL E. & SHARON K. GOOD
ATTN: 37403000000**

11. STORM WATER: VEGETATED CONVEYANCES WILL BE USED TO THE
EXTENT PRACTICAL (228) 403-2205

12. PARKING SPACES: 123 REGULAR & HANDICAP

**NOW OR FORMERLY
CHEN W. & MARILYN HASS**
774-376-0022

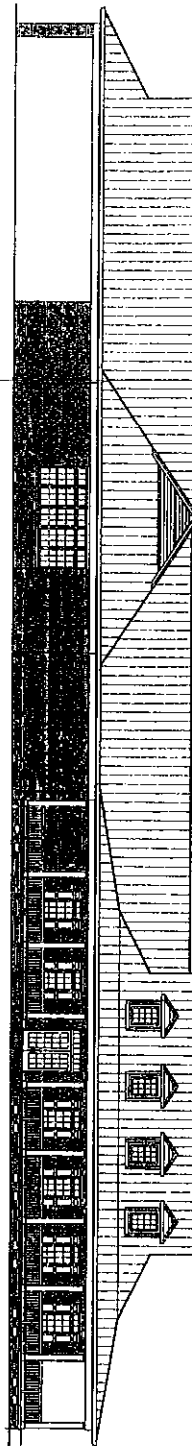
NOW OR FORMERLY
CHUN W. & MARIANNA HASS
aka. The Hasses

**NOW OR FORMERLY
JOHN W. E. MARLANINA MASS
BUREAU CHAIRMAN**

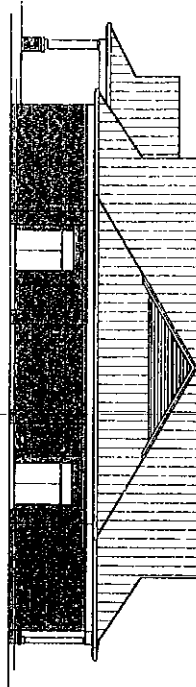
**NOW OR FORMERLY
JUDY G. TEAGUE**
PH# 374-0204/2114

30.

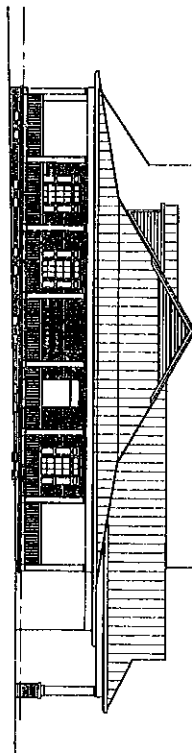
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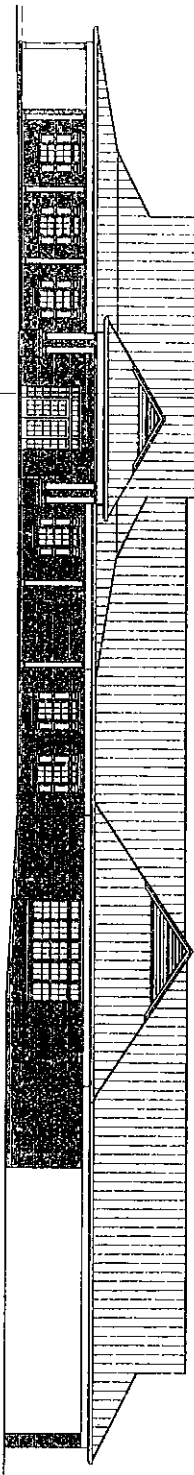
FRONT ELEVATION - BUILDING A
BUSINESS, RECEIVING & CHAPEL
SCALE: 1/4" = 1'-0"



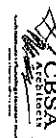
LEFT SIDE ELEVATION - BUILDING A
BUSINESS, RECEIVING & CHAPEL
SCALE: 1/4" = 1'-0"



RIGHT SIDE ELEVATION - BUILDING A
BUSINESS, RECEIVING & CHAPEL
SCALE: 1/4" = 1'-0"



REAR ELEVATION - BUILDING A
BUSINESS, RECEIVING & CHAPEL
SCALE: 1/4" = 1'-0"



1855 EAST NC HIGHWAY 10
NEWTON, NORTH CAROLINA 28601
TEL: 704.455.1234
FAX: 704.455.1235
WWW.CBSA-NC.COM

SPECIAL USE PERMIT
FOR PROPOSED NEW FACILITY

BENNETT'S FUNERAL SERVICES

1855 EAST NC HIGHWAY 10
NEWTON, NORTH CAROLINA 28601

NO.	DATE	DESCRIPTION	BY
1	10/1/01	ISSUED FOR PERMIT	W. J. B.
2	10/1/01	REVISION	W. J. B.
3	10/1/01	REVISION	W. J. B.
4	10/1/01	REVISION	W. J. B.
5	10/1/01	REVISION	W. J. B.
6	10/1/01	REVISION	W. J. B.
7	10/1/01	REVISION	W. J. B.
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16	10/1/01	REVISION	W. J. B.
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18	10/1/01	REVISION	W. J. B.
19	10/1/01	REVISION	W. J. B.
20	10/1/01	REVISION	W. J. B.
21	10/1/01	REVISION	W. J. B.
22	10/1/01	REVISION	W. J. B.
23	10/1/01	REVISION	W. J. B.
24	10/1/01	REVISION	W. J. B.
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26	10/1/01	REVISION	W. J. B.
27	10/1/01	REVISION	W. J. B.
28	10/1/01	REVISION	W. J. B.
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32	10/1/01	REVISION	W. J. B.
33	10/1/01	REVISION	W. J. B.
34	10/1/01	REVISION	W. J. B.
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43	10/1/01	REVISION	W. J. B.
44	10/1/01	REVISION	W. J. B.
45	10/1/01	REVISION	W. J. B.
46	10/1/01	REVISION	W. J. B.
47	10/1/01	REVISION	W. J. B.
48	10/1/01	REVISION	W. J. B.
49	10/1/01	REVISION	W. J. B.
50	10/1/01	REVISION	W. J. B.
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53	10/1/01	REVISION	W. J. B.
54	10/1/01	REVISION	W. J. B.
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56	10/1/01	REVISION	W. J. B.
57	10/1/01	REVISION	W. J. B.
58	10/1/01	REVISION	W. J. B.
59	10/1/01	REVISION	W. J. B.
60	10/1/01	REVISION	W. J. B.
61	10/1/01	REVISION	W. J. B.
62	10/1/01	REVISION	W. J. B.
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71	10/1/01	REVISION	W. J. B.
72	10/1/01	REVISION	W. J. B.
73	10/1/01	REVISION	W. J. B.
74	10/1/01	REVISION	W. J. B.
75	10/1/01	REVISION	W. J. B.
76	10/1/01	REVISION	W. J. B.
77	10/1/01	REVISION	W. J. B.
78	10/1/01	REVISION	W. J. B.
79	10/1/01	REVISION	W. J. B.
80	10/1/01	REVISION	W. J. B.
81	10/1/01	REVISION	W. J. B.
82	10/1/01	REVISION	W. J. B.
83	10/1/01	REVISION	W. J. B.
84	10/1/01	REVISION	W. J. B.
85	10/1/01	REVISION	W. J. B.
86	10/1/01	REVISION	W. J. B.
87	10/1/01	REVISION	W. J. B.
88	10/1/01	REVISION	W. J. B.
89	10/1/01	REVISION	W. J. B.
90	10/1/01	REVISION	W. J. B.
91	10/1/01	REVISION	W. J. B.
92	10/1/01	REVISION	W. J. B.
93	10/1/01	REVISION	W. J. B.
94	10/1/01	REVISION	W. J. B.
95	10/1/01	REVISION	W. J. B.
96	10/1/01	REVISION	W. J. B.
97	10/1/01	REVISION	W. J. B.
98	10/1/01	REVISION	W. J. B.
99	10/1/01	REVISION	W. J. B.
100	10/1/01	REVISION	W. J. B.

PROPOSED ELEVATIONS
BUILDING A

A3.0

1225 Caleb Setzer Road
Newton, NC 28658
828-464-8417

June 22, 2016

Dear Sirs:

This letter is in response to the notice concerning the Newton Planning commission's Public Hearing on June 28, 2016. We will be unable to attend due to major back surgery for Sue at Presbyterian Hospital in Charlotte on that same day. We would like to express our concerns regarding the Special Use permit filed by Robbie Bennett for a funeral parlor near our home of 50 years.

First of all, please note that we are against the permit to build and operate a funeral parlor – the reasons are as following:

We oppose the permit because this is Residential; it is not an appropriate use of residential land. If it is re-zoned, then it opens the door to all commercial businesses. This funeral parlor will be extremely detrimental to our property value as well. Funeral homes have a certain connotation about them and would detract from the value of the surrounding land. People move and purchase land for many reasons, but no one wants to live next to a funeral home, which would make selling property in this area extremely difficult. It will hurt our investment we have made through the years and completely change our so-called "Golden Years"!

Having to look at a funeral home out my sliding glass door would certainly be depressing. We are use to seeing nature out that door; deer, turkeys, squirrels, rabbits, etc. Now, we know that funerals are a part of life, but seeing it so close and knowing there are corpses right there is something we don't think we can endure each and every day. As we aged, we thought we would enjoy our years right here in this residential neighborhood, a place we have loved for years. But the news of the possibility of this rezoning has already had a depressing influence on our life. The taking in and out of dead bodies, the simple thought of the embalming, and the thought of all of this is more than we can handle being right next to our house. There is a psychological 'ick' factor associated with living next door to a funeral parlor. We simply do not know what we will do now if this is rezoned to

allow this construction. To be reminded daily of our mortality when simply looking out a door is a very emotional issue for us.

We also think about the constant going and coming of the traffic created from this proposed parlor on Highway 16. The traffic would certainly be affected with the funeral services, the funeral processions pulling out and so on from this proposed parlor. Not only the pulling out of the processions, but the traffic from the "receivings" could also create traffic snarls. The traffic flow of this highway will most certainly be affected.


There will be added congestion to this "new" highway.

We have been told that there will be no crematorium, but we know that will be the next step. We have spent a whole day researching issues to go along with this permit, and from Canada to across the United States; folks do not want to live near one of these. Even though funeral home owners state that they are safe for the environment, my research did not pull up one publication that proved that fact. It is stated that fumes are to be clear, odorless and invisible, but later they all proved to be harmful. All have reported that mercury vapor is emitted from these and have had profound health effects on those living near them.

There is also the issue of no water and sewer available and that would have to be added at your expense? We don't know how that works, but we know these services are not there now. Also, how can you guarantee the disposal of the fluids from that business would not have an added determinable affect on the land. We understand special underground containers are used, but we also know that there are exceptions to everything, and leakage could be a possibility.

If you, as a commission, pass this re-zoning to allow this permit to be issued, you will take the "Golden" out of our "years". Please take our concerns under consideration and do not rezone nor issue this permit.

Sincerely,

A handwritten signature in cursive script that reads "Eddie Travis".

Edward (Eddie) Travis

Laura (Sue) Travis

**DECISIONS ON SPECIAL USE PERMIT
NEWTON CITY COUNCIL**

Application # _____

Date of Consideration _____

Requested Action _____

The Zoning Ordinance imposes the following GENERAL REQUIREMENTS on the use requested by the Applicant:

Based upon the following FINDINGS OF FACT, the Council concludes that the proposed use as indicated by the Applicant will meet the GENERAL REQUIREMENTS as follows:

The Zoning Ordinance also imposes the following SPECIFIC REQUIREMENTS on the use requested by the Applicant. The Council finds as a fact that if the Applicant uses the land in a manner consistent with the plans, specifications, and other information presented to the Council, the proposed use will comply with each of the following specific requirement imposed by the Ordinance:

THEREFORE, because the Council concludes that all of the general and specific conditions precedent to the issuance of a SPECIAL USE PERMIT have/have not been satisfied, the application for the permit is hereby GRANTED/DENIED:

The granting of the SPECIAL USE PERMIT is expressly made conditional upon the observance by the Applicant of the following requirements, in addition to all of the specific requirements listed above:

DATE: _____

Mayor

City Clerk

Special Uses Chapter 102. Article X.

Sec. 102-462. - General standards.

The following general standards shall be met by all applicants for approval at special uses:

(1)

The use will promote the public health, safety and general welfare, if located where proposed and developed and operated according to the application.

(2)

The use, which is listed as a special use in the district in which it is proposed to be located, complies with all required regulations and standards, including the provisions of articles IV, V and VI of this chapter, unless greater or different regulations are contained in the individual standards for that special use.

(3)

The use will maintain or enhance the value of contiguous property, or that the use is a public necessity.

(4)

The use is in compliance with the general plans for the physical development of the city as embodied in these regulations. The board of adjustment or the council, as appropriate, shall make these general findings based upon substantial evidence contained in its proceedings. It shall be the responsibility of the applicant to present evidence in the form of testimony, exhibits, documents, models, plans and the like to support the application for approval of a special use.

(Code 1972, § 26-11.2; Ord. No. 91.53, 10-16-1991; Ord. No. 2002.31, 8-21-2002)

Sec. 102-466. - Contents of application for approval.

The application for approval of a special use shall be submitted on forms provided by the planning director. Such forms shall be prepared so that, when completed, a full and accurate description of the proposed use, including its location, appearance, and operational characteristics shall be disclosed. Additionally, the forms shall, when completed by the applicant, disclose the name(s) and address(es) of the owner(s) of the property involved, the name(s) and address(es) of the applicant, if different from the owner(s), and all relevant information needed to show compliance with the general and specific standards governing the special use which is the subject of the application. (Code 1972, § 26-11.6; Ord. No. 91.53, 10-16-1991)

Child and adult care center. The following specific standards shall be used in deciding an application for approval of these uses:

a.

A fenced outdoor playing area for children shall be provided in the rear yard and may be provided within side yards.

b.

Uses designed to accommodate more than 30 children shall have a minimum lot size of 30,000 square feet.

PUBLIC HEARING

The Newton City Council will hold a Public Hearing beginning at 7:00 p.m. on August 2, 2016 in the Council Chambers at Newton City Hall, 401 North Main Avenue, on the following matter:

Special Use #2016-02 filed by Robbie Bennett. The applicant is seeking a special use permit to allow for the use and operation of a funeral parlor. The subject site is located on the eastside of NC Hwy 16 just south of NC Hwy 10. The site comprises of two adjacent lots that are approximately 4 acres combined. According to Catawba County Tax Records the properties are identified as parcel number 3740-20-82-4491 and 3740-20-82-4131.

The file for the above matter is available for viewing between the hours of 8:00 a.m. and 5:00 p.m., Monday through Friday in the Planning Department at Newton City Hall.

All interested persons are urged to attend and provide comment, or call 828-695-4305 with any questions.

Alex Fulbright
Assistant Planning Director

The City of Newton does not discriminate on the basis of disability in the provision of its services as charged by the Newton City Council. All meetings are held in accessible facilities. Any person with a disability needing special accommodations should contact the City of Newton ADA Coordinator at least 48 hours prior to the scheduled meeting.

Publish: July 22 and July 29, 2016

CITY OF NEWTON

REQUEST FOR COUNCIL ACTION

DATE: July 30, 2015

TO: Mayor and City Council

FROM: Todd Clark, City Manager

CONSIDERATION OF: Economic Development Agreement

Approved for Council Consideration

Background:

Peoples Bank proposes to equip and up-fit its headquarters facility located at 510 West C Street, Newton, North Carolina, 28658, Parcel ID# 373016728618. In an effort to accomplish this up-fit, Peoples Bank is seeking the assistance of the City of Newton to assist with an appropriation for the purpose of aiding and encouraging Peoples Bank in the proposed up-fit to its headquarters facility in Newton.

In order for the City of Newton to be able to authorize an appropriation such as that being requested by Peoples Bank, the applicant must demonstrate that there will be an actual investment in property located with or near its boundaries and that new jobs will be created as a result of the proposed investment. North Carolina General Statutes (NCGS) 158-7.1 authorizes the City to make appropriations for the purpose of aiding and encouraging the location of business enterprises and industrial and commercial plants in or near its boundaries. Peoples Bank is engaged in a business enterprise within the meaning of NCGS 158-7.1.

Peoples Bank proposes to invest not less than Three Million Five Hundred Thousand dollars (\$3,500,000) in the location at 510 West C Street, Newton, NC, and to create a minimum of Twenty-Five (25) new jobs at the facility as well as maintain Seventy-Five (75) permanent jobs, with the improvements to be made and new jobs to be created between May 1, 2016, and December 31, 2017.

The proposed Economic Development Agreement between the City of Newton and Peoples Bank provides for the payment of Economic Development incentives for real and personal property investments and for job creation by the City of Newton to Peoples Bank in annual payments equal to fifty percent (50%) of the ad valorem taxes associated with the additional value as paid to the City for a five (5) year period, commencing with the taxes payable for the tax values January 1, 2017, and January 1 of the succeeding four (4) years for investments made pursuant to the Economic Development Agreement under consideration. Said payments by the City shall be payable annually, beginning in 2018 and shall be payable through and including 2022.

In no event will the payments by the City exceed Ten Thousand Eight Hundred Dollars (\$10,800) per year, or the cumulative amounts of Fifty-Four Thousand Dollars (\$54,000) as provided in said agreement.

Public Notification:

Public notification procedures have been conducted in compliance with North Carolina General Statute 158-7.1 and Session Law 2015-277. A public notice was published in the Observer News Enterprise on July 21, 2016.

Action Suggested:

The suggested action is for City Council to enter into said Economic Development Agreement with Peoples Bank under the terms and conditions as contained therein.

Prepared by:
John H. Cilley IV
Attorney, City of Newton
217 N. Main Avenue, Newton, NC 28658

STATE OF NORTH CAROLINA

**CITY OF NEWTON AND PEOPLES BANK
ECONOMIC DEVELOPMENT AGREEMENT**

COUNTY OF CATAWBA

This **JOINT ECONOMIC DEVELOPMENT AGREEMENT** (this "Agreement") is made and entered into this ____ day of ____, 2016, by and between **City of Newton** (the "City"), a North Carolina municipal corporation, having a mailing address of **Post Office Box 550, Newton, NC, 28658**, and **PEOPLES BANK** ("Peoples Bank" or "Company"), a North Carolina corporation qualified to do business in the State of North Carolina, having a mailing address of 510 West C Street, Newton, North Carolina, 28658.

WITNESSETH:

WHEREAS, North Carolina General Statute (NCGS) 158-7.1 authorizes City to make appropriations for the purpose of aiding and encouraging the location of business enterprises and industrial and commercial plants in or near its boundaries and PEOPLES BANK is engaged in business enterprise within the meaning of NCGS 158-7.1; and

WHEREAS, PEOPLES BANK intends to equip and up-fit a headquarters facility ("Improvements") at 510 West C Street, Newton, North Carolina, 28658, Parcel ID # 373016728618 (the "Property"), at a cost of not less than Three Million Five Hundred Thousand Dollars (**\$3,500,000**) and intends to create a minimum of twenty-five (25) new jobs at the facility and retain seventy-five (75) permanent jobs, with the improvements to be made and new jobs to be created between May 1, 2016 and December 31, 2017 (the "Improvement Period"); and

WHEREAS, PEOPLES BANK expects to be a community-oriented company and intends to participate in philanthropy, community events and programs intended to increase the health and happiness of their employees and the greater community as a whole; and to consider participation in the Catawba EDC's corporate Committee of 100 501(c)(3) non-profit sponsorship; and

WHEREAS, PEOPLES BANK is encouraged, to the reasonable extent possible, to purchase local services and supplies, such as, but not limited to, locally produced products, local hotel, motel and hospitality services, local building and construction services, and other products and services;

NOW, THEREFORE, in consideration of the promises contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

SECTION I – PEOPLES BANK, INC.

1. On or before August 31, 2016, PEOPLES BANK shall:
 - 1.1 Deliver to City a certificate confirming that PEOPLES BANK owns the real Property on which it intends to install the Improvements that will result in the creation, maintenance and future availability of a minimum of 25 new jobs prior to December 31, 2017, and that the overall average weekly wage will equal or exceed 100% of the Average Weekly Wage established for Catawba County by the North Carolina Department of Commerce's Wage Standards for each year that City pays PEOPLES BANK the economic development incentive provided for herein. PEOPLES BANK affirms understanding of, and agrees to comply with, the Calendar of Responsibilities as outlined in Exhibit "A". Such certificate shall be in the form or substantially in the form of the certificate attached to this Agreement as Exhibit "A". It is understood and agreed the 25 new jobs referred to above means additional new jobs over and above the 75 existing jobs employed by PEOPLES BANK on May 1, 2016.
 - 1.2 Provide an Opinion of Counsel for PEOPLES BANK, in form and substance reasonably satisfactory to City, that this Agreement has been duly authorized, executed and delivered by PEOPLES BANK; and
 - 1.3 Provide an Opinion of Counsel for PEOPLES BANK, in form and substance reasonably satisfactory to City, stating that this Agreement is binding upon and enforceable against PEOPLES BANK, in North Carolina, in accordance with its terms.
2. In order to induce City to enter into this Agreement and to appropriate and expend monies for payment of economic development incentives, PEOPLES BANK represents and warrants that, as of the execution date hereof:
 - 2.1 PEOPLES BANK is a North Carolina corporation qualified to do business in the State of North Carolina, has a place of business within the State of North Carolina, and is in good standing and authorized to do business in the State of North Carolina;
 - 2.2 PEOPLES BANK has the corporate power and authority to own its properties and assets and to carry on its business as now being conducted and has the corporate power and authority to execute and perform this Agreement;
 - 2.3 The undersigned representative of PEOPLES BANK has the right, authority and duty to execute this Agreement in the name and on behalf of PEOPLES BANK;
 - 2.4 This Agreement (i) is the valid and binding instrument and agreement of PEOPLES BANK, enforceable against PEOPLES BANK in accordance with its terms; (ii) does not violate any order of any court or other agency of government binding on PEOPLES BANK, the charter documents or operating agreement of PEOPLES BANK or any provision of any indenture, agreement or other instrument to which PEOPLES BANK is a party; and (iii) does not conflict with,

result in a breach of, or constitute an event of default, or an event which, with notice or lapse of time, or both, would constitute an event of default, under any indenture, agreement or other instrument to which PEOPLES BANK is a party;

- 2.5 There is no suit, claim, action or litigation pending, or to the knowledge of PEOPLES BANK threatened, relating to the Improvements, the use of the Improvements for their intended purpose, or any other matter contained herein;
 - 2.6 There is no impediment to the use of the Property for the purposes contemplated by this Agreement.
 - 2.7 PEOPLES BANK is not engaged in a business that would be exempt from property taxes.
- 3. PEOPLES BANK shall make or cause to be made investments to the Property and Improvements during the Improvement Period. Cumulative expenditures will meet or exceed Three Million Five Hundred Thousand Dollars (**\$3,500,000**) by December 31, 2017, all of which will qualify and result in additional value for ad valorem tax purposes as determined by the Catawba County Tax Office, and PEOPLES BANK further agrees to maintain in place, in good condition (ordinary wear and tear excepted), said Improvements for three years after the final incentive payment.
 - 4. In addition to the 75 existing jobs employed by PEOPLES BANK on May 1, 2016, PEOPLES BANK shall create a minimum of 25 new jobs at the Property in Newton by December 31, 2017 and maintain or make available these jobs in place until three years after the final incentive payment. For the 25 new jobs, no jobs that are existing as of May 1, 2016 and are transferred from another Peoples Bank facility shall be included in the calculation. A job is defined as employment that provides 1600 hours or more of work in any 12 month period.

SECTION II – CITY

- 5. On or before August 31, 2016 City shall deliver to PEOPLES BANK an Opinion of Counsel for City, in form and substance reasonably satisfactory to PEOPLES BANK, that this Agreement has been duly authorized, executed and delivered by City; and stating that this Agreement complies with the terms and requirements of NCGS 158-7.1(a) and is binding upon and enforceable against City with its terms; and evidence in the form of a Resolution or Resolutions, or official minutes, which City duly adopted authorizing the economic development incentives set forth in this Agreement.
- 6. In order to induce PEOPLES BANK to enter into this Agreement and to appropriate and expend monies for payment of economic development incentives, City represents and warrants that, to the best of City's knowledge that, as of the execution date hereof:
 - a. City is a North Carolina municipal corporation existing under North Carolina law;

- b. City has the power and authority to carry on its business as now being conducted and has the power and authority to execute and perform this Agreement;
 - c. The undersigned authorized representative of City has the right, authority and duty to execute this Agreement in the name and on behalf of City;
 - d. This Agreement (i) is the valid and binding instrument and agreement of City, enforceable against City in accordance with its terms; (ii) does not violate any order of any court or other agency of government binding on City, the charter documents of City or any provision of any indenture, agreement or other instrument to which City is a party; and (iii) does not conflict with, result in a breach of, or constitute an event of default, or an event which, with notice or lapse of time, or both, would constitute an event of default, under any indenture, agreement or other instrument to which City is a party; and
 - e. There is no suit, claim, action or litigation pending, or to the knowledge of City threatened, relating to the Improvements, the use of the Improvements for their intended purpose, or any other matter contained herein.
7. Payment of Economic Development Incentives for Real and Personal Investments and for Job Creation in accordance with this Agreement shall be made as follows:
- a. City will provide annual payments equal to fifty percent (50%) of the ad valorem taxes associated with the additional value (exclusive of rolling stock) as paid to City for a five (5) year period, commencing with the taxes payable for the tax values on January 1, 2017, and January 1 of the succeeding four (4) years for investments made pursuant to paragraph 3 above with maximum payments as reflected in the chart below.
 - b. In no event will the payments by City exceed Ten Thousand Eight Hundred Dollars (\$10,800) per year, or the cumulative amount of \$54,000.

Grant Year	Maximum Payment By City by Year
1	\$ 9,450
2	\$ 9,450
3	\$ 9,450
4	\$ 9,450
5	\$ 9,450
Total	\$ 47,250

- c. Said amounts shall be payable annually, beginning in 2018 (Grant Year 1) payable through 2022.
- d. Upon payment of ad valorem taxes by Company to City for each of 2017 through 2021 and certification by Company in the form or substantially in the form of the certificate attached hereto as Exhibit B, of Improvements made, proof of payment of taxes, verification that Company has created and maintained jobs as agreed herein, City will, within sixty (60) days, pay to Company an Economic Development Incentive payment the amount of which is calculated by multiplying by fifty percent (.50) times the total ad valorem tax revenue received by City

attributable to the value of the Improvements made by Company pursuant to this Agreement in excess of the assessed tax value on the site and PEOPLES BANK's personal property values as of January 1, 2017. This same process will be followed by City and Company in each of the immediately following four (4) years.

- e. Company shall furnish to City on or before March 5th of each calendar year, following and corresponding to the previous July 1st when taxes are billed, the certifications required by this Section 7 and proof of payment of all applicable taxes. If requested, Company shall provide City, at City's expense, independent certification as to such expenditures and number of existing jobs.

SECTION III - OTHER

- 8. Force Majeure. Notwithstanding the provisions of Paragraph 9, in the event PEOPLES BANK is unable to meet the requirements of this agreement as a result of (i) an event of force majeure, including but not limited to fires, explosions, acts of God, acts of public enemy, insurrections, riots, terrorism, embargoes, labor disputes, including strikes, lockouts and job actions, or boycotts; (ii) the inability to obtain the governmental permits or approvals (including zoning) necessary for the acquisition of the land or undertaking and operating the Improvements after a good faith effort to obtain same has been made; (iii) shortages of materials or energy; (iv) changes in laws; or (v) other causes beyond the control of and arising without the fault or negligence of PEOPLES BANK; then, in such event, the Improvement Period shall be extended for a period equal to the delay caused by any of the foregoing events so long as PEOPLES BANK shall (a) have furnished City on a timely basis, upon the occurrence of such event, a notice thereof, and (b) take all commercially reasonable steps necessary to relieve the effect of such event and to resume completion of the Improvements. In accord with the foregoing, should the PEOPLES BANK be unable to meet the requirements as described above as a result of a force majeure, the obligation of the City to pay as provided in Section II above, shall be suspended until such time as the PEOPLES BANK is relieved from the effect of an event of force majeure and resumes completion of the improvements.
- 9. It shall be an Event of Default if any one or more of the following events shall occur for any reason whatsoever (and whether such occurrence shall be voluntary or involuntary or come about or be effected by operation of law or pursuant to or in compliance with any judgment, decree or order of any court or any order, rule or regulation of any administrative or governmental body):
 - a. If PEOPLES BANK, except in the event of force majeure, shall commit a material breach of a material obligation hereunder (including without limitation, the obligation to meet the investment goals, maintain a minimum of 75 permanent jobs as of May 1, 2016 and, in addition, the creation of a minimum of 25 jobs as set forth herein) and such breach shall continue for a period of sixty (60) or more days following receipt of written notice from City;
 - b. If PEOPLES BANK fails to timely file Exhibit A, or Exhibit B on or before March 5 of each year, following and corresponding to the previous July 1st

when taxes are billed, and any qualifying incentive would be due to PEOPLES BANK, this shall be deemed a breach of the Agreement and notwithstanding paragraph 10 below, the sole remedy will be that City will not owe PEOPLES BANK any incentive that may have otherwise been due had those filings properly been made when due.

- c. If any material representation, warranty or other statement of fact contained in this Agreement or in any final writing, certificate, report or statement furnished by PEOPLES BANK to City in connection with the transaction described in this Agreement, shall, to PEOPLES BANK' knowledge, to be false or misleading in any material respect at the time given;
- d. If PEOPLES BANK shall be unable to pay its debts generally as they become due; files a petition to take advantage of any insolvency statute; makes an assignment for the benefit of creditors; commences a proceeding for the appointment of a receiver, trustee, liquidator or conservator of themselves or of the whole or any substantial part of their property; files a petition or answer seeking reorganization or arrangement of similar relief under the federal bankruptcy laws or any other applicable law or statute of the United States of America or any state;
- e. If City, except in the event of force majeure, fails to pay PEOPLES BANK when such payment is due or is otherwise unable to pay its debts generally as they become due; files a petition to take advantage of any insolvency statute; makes an assignment for the benefit of creditors; commences a proceeding for the appointment of an emergency manager, receiver, trustee, liquidator or conservator or any similar entity; files a petition or answer seeking reorganization or arrangement of similar relief under the federal bankruptcy laws or any other applicable law or statute of the United States of America or North Carolina;
- f. If a Court of competent jurisdiction shall enter an order, judgment, or decree appointing a custodian, receiver, trustee, liquidator, or conservator of PEOPLES BANK or of the whole or any substantial part of their properties, or approves a petition filed against PEOPLES BANK seeking reorganization or arrangement of similar relief under the federal bankruptcy laws or any other applicable law or statute; or if, under the provisions of any other law for the relief or aid of debtors, a court of competent jurisdiction shall assume custody or control of PEOPLES BANK or of the whole or any substantial part of their properties;
- g. If a Court of competent jurisdiction shall enter an order, judgment, or decree appointing an emergency manager, custodian, receiver, trustee, liquidator, or conservator or any similar entity for City, or approves a petition filed against City seeking reorganization or arrangement of similar relief under the federal bankruptcy laws or any other applicable law or statute; or if, under the provisions of any other law for the relief or aid of debtors, a court of competent jurisdiction shall assume custody or control of City; or

- h. If PEOPLES BANK shall allow its taxable assets, employment and average wage amounts to fall below the minimum values agreed upon in this Agreement, as each of the same pertain to the facility contemplated by this Agreement.
10. City Remedy: If PEOPLES BANK fails to cure an Event of Default for which it receives written notice from City, the obligation of City as set out herein shall terminate, and PEOPLES BANK shall immediately refund to City all economic development incentive payments paid to PEOPLES BANK prior to the date of the Event of Default plus interest at the rate of prime plus one percent (1%). The date the prime interest rate shall be determined shall be the date the PEOPLES BANK receives the notice of the Event of Default and prime will be the prime rate as published in the *Wall Street Journal (WSJ)*. PEOPLES BANK shall, as it relates to an Event of Default, have sixty (60) days after receipt of the notice required above, or such longer period to which the parties agree in writing to cure the Event of Default.
11. PEOPLES BANK Remedy: If City fails to cure an Event of Default for which it receives written notice from PEOPLES BANK, the obligations of PEOPLES BANK as set out herein shall terminate. City shall, as it relates to an Event of Default, have sixty (60) days after receipt of the notice required above, or such longer period to which the parties agree in writing to cure the Event of Default.
12. PEOPLES BANK and City acknowledge that any monies appropriated and expended by City for economic development incentives, as provided in this Agreement, are for a bona fide public purpose and are expended in good faith reliance on NCGS 158-7.1. In the event a Court of competent jurisdiction rules to which either PEOPLES BANK or City is a party, that all monies expended by City pursuant to this Agreement were not offered and accepted in good faith and in compliance with NCGS 158-7.1 and, further, that such monies must be repaid, PEOPLES BANK will make such repayment to City. In the event one or more lawsuits are brought against City or any City elected official, officer, agent or employee, or PEOPLES BANK, challenging the legality of this Agreement, then City and PEOPLES BANK shall exercise their best efforts to defend against any and all such lawsuits, at their own cost and expense. In any event, if PEOPLES BANK is required to repay funds to City pursuant to this paragraph 12, the benefit of this Agreement to PEOPLES BANK will have been lost and all further obligations of PEOPLES BANK hereunder shall terminate.
13. All notices, certificates or other communications required or permitted to be given or served hereunder shall be deemed given or served in accordance with the provisions of this Agreement if the notice is (i) mailed in a sealed wrapper and is deposited in the United States mail, certified mail, return receipt requested, postage prepaid, or (ii) deposited with a national overnight courier service that retains receipts for its deliveries, properly addressed as follows:

City of Newton:	City of Newton
	Attn: Todd Clark, City Manager
	PO Box 550
	Newton, NC 28658

Copy to: City Attorney
Attn: John H. Cilley IV, City Attorney
217 N. Main Avenue
Newton, NC 28658

Company: PEOPLES BANK, INC.
Attn: Lance Sellers, _____(Title)

Newton, NC 28658

City or PEOPLES BANK may, by notice given to the other, designate any further or different addresses to which notices, certificates, requests or other communications shall be sent.

14. This Agreement shall inure to the benefit of, and is binding upon, City and PEOPLES BANK and their respective successors and assigns. However, neither this Agreement, nor any rights, privileges, nor claims created by this Agreement may be transferred by PEOPLES BANK without the prior, written approval of City, which approval will not be unreasonably withheld.
15. Except as otherwise provided in this Agreement, this Agreement may not be amended, changed, modified or altered except by written agreement of the parties.
16. If any provision of this Agreement is held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provisions of this Agreement.
17. This Agreement may be executed in any number of counterparts, each of which when so executed and delivered shall be deemed an original, and it shall not be necessary in making proof of this Agreement to produce or account for more than one such fully-executed counterpart.
18. Controlling Law and Venue. This Agreement is governed by and shall be construed in accordance with the laws of the State of North Carolina; venue of any action shall be in the general courts of justice in Catawba County, or if in Federal court in the Western District of North Carolina.
19. The term of this Agreement shall commence on the date of execution and expire upon payment by City of all payments due to PEOPLES BANK and PEOPLES BANK fulfilling all of its requirements including real and personal property investments and the creation and maintenance of jobs, unless earlier terminated as provided herein.
20. Both PEOPLES BANK and City acknowledge and stipulate that this Agreement is the product of mutual negotiation and bargaining and that it has been drafted by Counsel for both PEOPLES BANK and City. As such, the doctrine of construction against the drafter shall have no application to this Agreement.

Attest:
(SEAL)

Attest:
(SEAL)

Amy Falowski, Clerk

By: _____(Seal)

_____(Title)

I, _____ a Notary Public of said county and state, certify that Amy Falowski personally came before me this day and acknowledged that she is City Clerk of the City of Newton, a North Carolina municipal corporation and that by authority duly given and as the act of the City the foregoing instrument was signed in its name by its Mayor, sealed with its seal, and attested by herself as City Clerk.

[Seal]

Notary Public

My commission expires: _____

**STATE OF NORTH CAROLINA
COUNTY OF CATAWBA**

I, _____ a Notary Public of said County and State, do certify that _____, _____ (Title) of, PEOPLES BANK, INC. personally appeared before me this day and acknowledged on behalf of PEOPLES BANK, INC. the voluntary due execution of the foregoing document, all for the purposes therein expressed.

Witness my hand and seal this _____ day of _____, 2016.

[Seal]

Notary Public

My commission expires: _____

This document has been pre-audited in the manner required by the Local Government Budget and Fiscal Control Act.

Serina Hinson, City of Newton Finance Director

Approved as to form on behalf of City of Newton only:

John H. Cilley IV, City Attorney

EXHIBIT A
Joint Economic Development Agreement
Between CITY OF NEWTON and PEOPLES BANK, INC.

CERTIFICATE

TO: City of Newton

This Certificate is delivered pursuant to Paragraph 1.1 and Paragraph 9 of the Joint Economic Development Agreement (the "Agreement"), dated _____, 2016, between City of Newton ("City") and PEOPLES BANK, INC. ("PEOPLES BANK"). Any capitalized term not otherwise defined herein shall have the meaning assigned to such term in the Agreement.

I, _____, do hereby certify, for and on behalf of PEOPLES BANK, that:

- (a) PEOPLES BANK has, or has caused to be, acquired the real property necessary for the construction of the Facility and the Improvements; and
- (b) PEOPLES BANK will create, maintain and make available a minimum of 25 new net jobs (in addition to the 75 jobs as of May 1, 2016) prior to December 31, 2017 and the overall average weekly wage will equal or exceed the 100% Average Weekly Wage established for Catawba County by the North Carolina Department of Commerce's Wage Standards for each year that City pays PEOPLES BANK the economic development incentive provided for herein.; and
- (c) PEOPLES BANK agrees to comply with the Calendar of Responsibilities listed below.

Calendar of Responsibilities:

- By January 5: PEOPLES BANK make payment to City according to Tax Listing filed by January 31st of the previous year unless extension is requested and approved for April 15th. Any extension request must be filed by January 31st.
- By March 5: PEOPLES BANK must provide Exhibit A and Exhibit B and, supporting documents and proof of payment and/or compliance as required within Agreement.
- By April 15: PEOPLES BANK must provide Real/Personal Property Tax listings to Catawba County Tax Office.
- By April 22: Catawba County Tax Office to provide Tax Listing on Specified Accounts.*

*Note: This is not a company responsibility.

Dated at City of Newton, North Carolina, this _____ day of _____, 201__.

PEOPLES BANK, INC.

BY: _____

TITLE: _____

EXHIBIT B
Joint Economic Development Agreement
Between City of Newton and PEOPLES BANK, INC.

CERTIFICATE

TO: City of Newton

This Certificate is delivered pursuant to Paragraph 7 and Paragraph 9 of the Joint Economic Development Agreement ("the "Agreement") dated _____, 2016, between City of Newton ("City") and PEOPLES BANK, INC. ("PEOPLES BANK"). Any capitalized term not otherwise defined herein shall have the meaning assigned to such term in the Agreement.

PEOPLES BANK does hereby certify that:

- (a) The following improvements were made during the 20__ Calendar Year: _____;
- (b) The following jobs were created during the 20__ Calendar Year: _____ (please attach the most recent quarterly Form NCUI 101);
- (c) The average wage of all of those employed at the _____ Newton facility during the 20__ Calendar Year is as follows: (Wage Forms Total Payroll divided by number of employees) _____;
- (d) Total cumulative personal property valuation installed at the _____ facility during the 20__ Calendar Year _____; and
- (e) Proof of taxes paid is attached to this certificate.

Dated at City of Newton, North Carolina, this _____ day of _____, 20__.

PEOPLES BANK, INC.

BY: _____

TITLE: _____

Attachments (required):

Current Year City of Newton personal and real property Tax Listing information as reported to Catawba County Tax Office, Most recent quarterly Form NCUI 101, Proof of taxes paid in full and documentation as required by (f).

Calendar of Responsibilities:

- By January 5: PEOPLES BANK makes payment to City according to Tax Listing filed by January 31st of the previous year unless extension is requested and approved for April 15th. Any extension request must be filed by January 31st.
- By March 5: PEOPLES BANK must provide Exhibit B proof of payment of taxes and supporting documentation as required the Agreement and this Exhibit B.
- By April 15: PEOPLES BANK must provide Real/Personal Property Tax listings to Catawba County Tax Office.
- By April 22: County Tax Office to provide Tax Listing on Specified Accounts.*

*Note: This is not a Company responsibility.

**CITY OF NEWTON
NOTICE OF PUBLIC HEARING
PURSUANT TO NORTH CAROLINA GENERAL STATUTE 158-7.1
LEGAL NOTICE**

The City of Newton proposes to appropriate and expend city funds over a five (5) year period commencing January, 2017 for an economic development project pursuant to North Carolina General Statute 158-7.1. The Newton City Council intends to consider entering into an economic development agreement with Peoples Bank. The City of Newton believes this project will help stimulate and stabilize the local economy. The Economic Development Agreement will result in the investment of up to three million five hundred thousand dollars (\$3,500,000) and the creation of a minimum of twenty-five (25) new jobs. A contractual agreement has been developed to insure performance by Peoples Bank.

The Newton City Council will hold a public hearing on the city's proposed appropriations and expenditure of funds for this project on Tuesday, August 2, 2016, at 7:00 p.m. in the city council chambers, Newton City Hall, 401 North Main Avenue, Newton, NC.

All interested persons are invited to attend this meeting and present their comments.

Amy S. Falowski, City Clerk

Publish: July 21, 2016

CITY OF NEWTON

REQUEST FOR COUNCIL ACTION

DATE: April 15, 2015

TO: E. Todd Clark, City Manager

FROM: Serina Hinson, Finance Director

CONSIDERATION OF: Bid Award for Paving

Approved for Council Consideration

Background:

The City's 10-Year Capital Improvement Plan consisted of paving at six City of Newton facilities as approved by Council for Fiscal Year 2017: Police Complex, 24 S. College Ave. Parking Lot, Wastewater Treatment Plant, Southside Community Building, Southside Park, and Central Cemetery with a total budget for all paving of \$378,100.

Five RFP's were submitted to the following vendors: Carolina Paving, Evans Bros., Maymead, Midstate, and J.T. Russell. The City received a bid/response from four of the five vendors. Midstate did not respond to the RFP. Maymead provided a "No Bid" for each project. Evans Bros. provided a "No Bid" for the Police Complex and South College Parking Lot projects. All other bids are noted on the attached spreadsheet.

The City has the option of awarding Contracts for these projects as a single contract or separate Contracts for each project.

Bidders were requested to provide a base bid plus 10% contingency. Bidders were also requested to provide the following bids in the event that a specific project did not meet certain specifications:

- **ABC Stone Sub-base** - Bid per ton to remove existing asphalt and install an ABC stone base (minimum may vary by project) if existing stone base is less than specified for each respective project.
- **Structural Backfill** - In the event any area of the paving project has insufficient structural sub-base, the bidder was requested to provide a bid per cubic yard to undercut and install structural backfill.
- **2" of Binder Asphalt and 2" of S9.5B Asphalt** – The bidder was requested to provide a bid per square yard to meet pavement thickness specifications.

Staff recommends accepting the lowest bidder based on the base bid plus contingency for each project. Staff also recommends awarding alternates to the vendor with the base bid award due to familiarity and continuity of the project which should prove to be seamless.

Action Suggested:

Motion to approve as follows:

1. Award paving contract for Police Complex to J.T. Russell for \$61,000 plus 10% contingency for a total of \$67,100 and alternates if required.
2. Award paving contract for South College Parking Lot to Carolina Paving for \$61,085 plus 10% contingency for a total of \$67,193.50 and alternates if required.
3. Award paving contract for Wastewater Treatment Plant to J.T. Russell in the amount of \$35,838 for installation of 1,500 square yards and alternates if required.
4. Award paving contract for Southside Community Building to Evans Bros. for \$45,412 plus 10% contingency for a total of \$49,954 and alternates if required.
5. Award paving contract for Southside Park to J.T. Russell for \$98,000 plus 10% contingency for a total of \$107,800 and alternates if required.
6. Award paving contract for Central Cemetery to J.T. Russell for \$34,000 plus 10% contingency for a total of \$37,400 and alternates if required.

City of Newton						
Fiscal Year 2017 Paving Bids	Vendor					
			J. T. Russell	Evans Bros.	Carolina Paving	Maymead
	Description					
Police Complex	Per Scope of Project	Base Bid/Contingency	\$67,100.00	No Bid	\$72,358.00	No Bid
	ABC stone sub-base as needed	Ton	\$30.00	No Bid	\$19.00	No Bid
	Recommendation : JT Russell					
South College Parking Lot	Per Scope of Project	Base Bid/Contingency	\$69,300.00	No bid	\$67,193.50	No Bid
	ABC stone sub-base as needed	Ton	\$30.00	No bid	\$19.00	No Bid
	Structural Backfill	Cubic Yard	\$88.00	No bid	\$20.00	No Bid
	Recommendation : Carolina Paving					
Wastewater Treatment Plant	Per Scope of Project					
	Remove & Haul Off Old Pavement	Cubic Yard	\$3.50	\$5.50	\$2.00	No Bid
	ABC stone sub-base as needed	Ton	\$36.00	\$30.00	\$19.00	No Bid
	2" of Binder Asphalt	Square Yard	\$8.50	\$14.17	\$10.00	No Bid
	2" of S9.5B Asphalt	Square Yard	\$9.00	\$14.50	\$10.00	No Bid
	Recommendation : JT Russell					
Southside Community Building	Per Scope of Project	Base Bid/Contingency	\$51,700.00	\$49,954.00	\$57,486.00	No Bid
Firemen's Hut	ABC stone sub-base as needed	Ton	\$30.00	\$25.00	\$19.00	No Bid
	Structual Backfill	Cubic Yard	\$60.00	\$75.00	\$14.00	No Bid
	Recommendation : Evans Bros.					
Southside Park	Per Scope of Project	Base Bid/Contingency	\$107,800.00	\$131,748.00	\$122,941.50	No Bid
	ABC stone sub-base as needed	Ton	\$30.00	\$30.00	\$19.00	No Bid
	Structual Backfill	Cubic Yard	\$60.00	\$75.00	\$14.00	No Bid
	Recommendation : JT Russell					
Central Cemetery	Per Scope of Project	Base Bid/Contingency	\$37,400.00	\$58,504.00	\$37,829.00	No Bid
	ABC stone sub-base as needed	Ton	\$30.00	\$30.00	\$19.00	No Bid
	Structual Backfill	Cubic Yard	\$60.00	\$75.00	\$14.00	No Bid
	Recommendation : JT Russell					
	Low Bid					

Paving Projects FY 16-17

City Paving Project		J. T. Russell	Evans Bros.	Carolina Paving	Maymead
Item	Description				
Job Quote	Police Complex	\$67,100.00	No Bid	\$72,358.00	No Bid
Ton	Install ABC stone subbase as needed	\$30.00	No Bid	\$19.00	No Bid
Job Quote	South College Parking Lot	\$69,300.00	No bid	\$67,193.50	No Bid
Ton	Install ABC stone subbase as needed	\$30.00	No bid	\$19.00	No Bid
Cubic Yard	Undercut and Backfill	\$88.00	No bid	\$20.00	No Bid
	Wastewater Treatment Plant				
Cubic Yard	Remove & Haul Off Old Pavement	\$3.50	\$5.50	\$2.00	No Bid
Ton	Install ABC stone subbase as needed	\$36.00	\$30.00	\$19.00	No Bid
Square Yard	Install 2" of Binder Asphalt	\$8.50	\$14.17	\$10.00	No Bid
Square Yard	Install 2" of S9.5B Asphalt	\$9.00	\$14.50	\$10.00	No Bid
Job Quote	Southside Community Building	\$51,700.00	\$49,954.00	\$57,486.00	No Bid
Ton	Install ABC stone subbase as needed	\$30.00	\$25.00	\$19.00	No Bid
Cubic Yard	Install Structural Backfill	\$60.00	\$75.00	\$14.00	No Bid
Job Quote	Southside Park	\$107,800.00	\$131,748.00	\$122,941.50	No Bid
Ton	Install ABC stone subbase as needed	\$30.00	\$30.00	\$19.00	No Bid
Cubic Yard	Install Structural Backfill	\$60.00	\$75.00	\$14.00	No Bid
Job Quote	Central Cemetery	\$37,400.00	\$58,504.00	\$37,829.00	No Bid
Ton	Install ABC stone subbase as needed	\$30.00	\$30.00	\$19.00	No Bid
Cubic Yard	Install Structural Backfill	\$60.00	\$75.00	\$14.00	No Bid

Low Bid